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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,743	12/03/2001	Kurtis Lee Brown	15804	9141

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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH, WI 54956

EXAMINER

SALVATORE, LYNDIA

ART UNIT PAPER NUMBER

1771

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/005,743

Applicant(s)

BROWN ET AL.

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bishop et al., US 5,486,166.

The patent issued to Bishop et al., teaches a non-woven web suitable for use in diapers, personal care articles, and bandages (Abstract). The non-woven may comprise helically crimped single component staple or continuous fibers made from various polyolefin (i.e., polypropylene or polyethylene), polyester, or polyamide materials (Column 5, 45-60, Column 6, 11-16 and 39-50).

Bishop teaches various bonding techniques such as through-air-bonding and though not necessarily preferred thermal point bonding or pattern bonding (Column 4, 51-55 and Column 5, 26-31).

2. Claims 1-4, 11, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Stokes et al., US 5,858,515.

The patent issued to Stokes et al., teaches a pattern unbonded non-woven web suitable for use as loop fastening material for hook and loop fastening systems (Title and Abstract). The

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fibers used to make the non-woven may be crimped single component fibers (Column 7, 3-6).

Suitable materials used to make the fibers include polyolefins, polyesters, polyamides, and polyurethanes (Column 6, 65-67). Stokes et al., teaches using the non-woven webs in disposable personal care absorbent articles (Column 1, 20-30).

3. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Stokes et al., US 6,528,439.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

The patent issued to Stokes et al., teaches a non-woven web comprising crimped polymeric fibers suitable for use as towels, wipes, diapers, and absorbent personal care articles (Title, Abstract, and Column 15-21). Stokes et al., teaches crimping the fibers into a helical arrangement to increase the bulk, loftness, softness, and drapability of the non-woven (Column 4, 30-35). The crimped fiber may be in the form of spunbonded, meltblown, or staple fibers made from a single polymeric component (Column 5, 25-32). Suitable polymers include polypropylene (Column 7, 10-17). Stokes et al., teaches various bonding methods including, thermal point bonding, through-air-bonding, and hydroentangling (Column 10, 45-52).

Claim Rejections - 35 USC § 103

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop et al., US 5,486,166, or Stokes et al., US 5,858,515, or Stokes et al., US 6,528,439 in view of Akers, US 5,607,550.

The prior art of Bishop et al., and Stokes et al., '166 and '439 fail to teach the fibers composed of a super-absorbent polymer, however, the patent issued to Akers teaches an absorbent non-woven fabric comprising super-absorbent polymer fibers (Column 1, 35-40). The absorbent non-woven of Akers is suitable for use as diapers and other absorbent personal care articles (Column 4, 46-50). Akers teaches that super-absorbent polymer fibers impart cohesive strength to the non-woven (Column 1, 51-63).

Therefore, motivated to provide an absorbent non-woven having sufficient bulk, loftness, softness, drapability and cohesive strength it would have been obvious to one having ordinary skill in the art to form the helically crimped fibrous non-woven structures of Bishop et al., Stokes et al., '166 or '439 with the super-absorbent polymeric fibers of Akers.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls *ff*
July 13, 2003


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER